THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18223 OF 2006

01.9.2006

Between:

Boppidi Laxma Reddy, S/o.Malla Reddy

… Petitioner

AND

The Joint Collector, Sangareddy, Medak District
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18223 OF 2006

ORDER:

This writ petition is filed against the order of the first respondent dated 01.2.2006 in Case No.F3/8659/99-F3/31/ROR/2001 whereby and whereunder the order of the second respondent dated 11.6.1999 was confirmed.

The case of the petitioner is as follows. He claims to be the owner of land admeasuring Acs.1.30 guntas in survey No.735 situated at Kuknoor Village of Yeldurthy Mandal in Medak District. In 1979-1980, he got the property mutated in his name and his name was shown as pattadar. He alleges that such entries were made based on a partition deed on an unstamped paper. The third respondent herein who is admittedly coparcener filed appeal before the second respondent under Section 5(5) of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity). After giving notice to the petitioner, the Revenue Divisional Officer, Medak (RDO), came to the conclusion that there was no family partition, which was the basis for altering the entries in 1979-1980, and accordingly directed the Mandal Revenue Officer, Yeldurthy Mandal (MRO), to cancel the entries in favour of the petitioner in respect of the land admeasuring Acs.1.30 guntas in survey No.735 of Kuknoor Village. The petitioner then filed a revision under Section 9 of the Act. The same was also dismissed on the ground that the petitioner failed to produce any evidence in support of family partition.

Learned Counsel for the petitioner strenuously contends that under Section 5(5) of the Act, the RDO is entitled to entertain appeal within sixty (60) days and as the appeal was filed by the third respondent after a long delay, the same could not have been entertained. Secondly, he submits that the partition deed executed among the family members on unstamped paper is sufficient proof of partition and the first respondent committed illegality in rejecting the same.

Insofar as the first contention on the question of limitation is concerned, no such plea appears to have been taken before the RDO.

Even otherwise, under Rule 13(2) of A.P. Rights in Land and Pattadar Pass Books Rules, 1989 (the Rules, for brevity), it is competent for the RDO to cancel the entries of record of rights, which were made under a mistake, after giving notice to the aggrieved persons. This is what precisely done by the second respondent.

The first respondent while dismissing the revision petition observed as under.

> The Mandal Revenue Officer in his remarks stated that Sy.No.735 situated at Kuknoor village total extent of Acs.10.35 guntas stands patta in the name of respondent upto 1984-85 whereas during te year 1985-86 the name of revision petitioner herein has been recorded as pattadar to an extent of Acs.1.30 guntas as per family partition deed dated 10.10.1975. The plea of the Revision Petitioner herein that the land has come to his share as per the family settlement deed is not correct in the absence of any documentary evidence. As such, the burden of proof lies on the Revision Petitioner herein that the land in the matter has come to his share according to the family settlement deed.
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> The Revenue Divisional Officer, Medak, inhis remarks has supported the version of Mandal Revenue Officer, Yeldurthy, and requested to dismiss the Revision Petition filed herein.

The above observations would show that the petitioner did not produce any additional documentary evidence when the matter was pending before the RDO, except relying on the oral partition or partition on a white paper, which was disbelieved by the authorities. The same cannot be treated as illegality warranting interference in this writ petition.

The writ petition is devoid of merits and is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

September 01, 2006
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